

REMARKS

Restriction to one of the following groups was required under 35 U.S.C. § 121:

- Group I, claim 1, drawn to a method of inhibiting pathogen growth in meat classified in class 426, subclass 316.
- Group II, claims 2 and 3 (formerly claims 31 and 32 as originally filed, and renumbered claims 2 and 3, respectively under 37 CFR 1.126), drawn to a pathogen growth inhibitor comprising carbon monoxide gas classified in class 424.

Applicant provisionally elects Group I, claim 1, for prosecution purposes, with traverse. Applicant hereby conditionally withdraws claims 2 and 3 from prosecution, without prejudice, and request reconsideration of the restriction requirement.

Applicant traverses the restriction requirement based on the following grounds. It is respectfully submitted that the restriction requirement practice was established to promote efficiency of prosecution in the Patent Office. Both groups of claims relate to pathogens and a method of inhibiting pathogens. Since there is a great amount of cross classification between these classes, it is respectfully submitted that examination of all the claims in a single application would be efficient, thereby promoting the grounds for the establishment of the restriction requirement practice. Hence, it is respectfully submitted that restriction should not be required and that Applicant has traversed the restriction requirement. However, as stated above, Applicant has elected the claim of Group I and provisionally withdraws claims 2 and 3, without prejudice, pending reconsideration of the restriction requirement.

The Office Action also requests clarification with regard to the specification. It is noted that the file only contains twenty-four pages of specification. However, as shown in the transmittal of the present application, fifty-four pages of the specification were filed.

Further, as stated in the Preliminary Amendment, this is a continuation-in-part application. This continuation-in-part application added new material via a Preliminary Amendment. In other words, the specification that was filed was identical to that of the parent application, USSN 09/480,812 and additional material was provided in the Preliminary Amendment. Specifically, the Preliminary Amendment references page 46 of the specification on page 5 of the Preliminary Amendment and this reference to page 46 indicates that the specification was longer than 24 pages. All of these indications establish that there were more than 24 pages of the specification. A substitute specification can be filed if it is deemed necessary.

In view of the present amendment and foregoing remarks, reconsideration of the rejections and advancement of the case to issue are respectfully requested.

The Commissioner is authorized to charge any fee or credit any overpayment in connection with this communication to our Deposit Account No. 11-1449.

Respectfully submitted,

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231 on April 25, 2002.


Angel Webb

VERSION WITH MARKINGS TO SHOW CHANGES MADE

IN THE CLAIMS:

4. (new) A method as set forth in claim 1, wherein said exposing step includes exposing raw meat to an atmosphere wherein the atmosphere is further defined as a volume of carbon monoxide of approximately 30% by weight of the volume of the meat being treated.

5. (new) A method as set forth in claim 1, wherein said maintaining step includes retarding pathogen growth wherein the pathogen is selected from the group consisting of E. coli, Pseudomonas fluorescens, Staphylococcus aureus, Listeria monocytogens, Clostridium perfringens, and Salmonella typhimurium.

6. (new) A method as set forth in claim 1, wherein said exposing step includes exposing raw meat that is beef.

7. (new) A method as set forth in claim 1, wherein said exposing step includes exposing raw meat that is poultry.

8. (new) A method of inhibiting pathogen growth by exposing raw beef to an atmosphere consisting essentially of carbon monoxide and maintaining the beef in a vacuum-free, sealed container to maintain color and freshness while retarding bacterial growth, wherein the pathogen is selected from the group consisting of E. coli, Pseudomonas fluorescens, Staphylococcus aureus, Listeria monocytogens, Clostridium perfringens, and Salmonella typhimurium.

9. (new) A method of inhibiting pathogen growth by exposing raw poultry to an atmosphere consisting essentially of carbon monoxide and maintaining the poultry in a vacuum-free, sealed container to maintain color and freshness while retarding bacterial growth, wherein the pathogen is selected from the group consisting of E. coli,

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Pseudomonas fluorescens, *Staphylococcus aureus*, *Listeria monocytogens*, *Clostridium perfringens*, and *Salmonella typhimurium*.